

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA

**FILED**

JAN 25 2011

**MICHAEL E. KUNZ, Clerk  
By \_\_\_\_\_ Dep. Clerk**

**FINAL JUDGMENT AS TO PETER KOHLER**

The Securities and Exchange Commission having filed a Complaint, and Peter Kohler personally and as representative of the community of heirs of Lorenz Kohler pursuant to substitution under Rule 25(a) having entered a general appearance, consented to the Court's jurisdiction over him and the subject matter of this action, consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction), waived findings of fact and conclusions of law, and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Peter Kohler, personally and as representative of the community of heirs of Lorenz Kohler, is liable for disgorgement of \$85,631 representing profits gained as a result of the conduct alleged in the Complaint. This obligation shall be satisfied from the proceeds now held by Credit Suisse Securities (USA) LLC from the sale for the benefit of the account of Lorenz Kohler on October

9, 2006, of 4 November-\$30 call options on the common stock of CNS, Inc. and the sale for the benefit of the account of Lorenz Kohler on October 10, 2006, of 196 October-\$30 call options on the common stock of CNS, Inc.. The proceeds of these sales were frozen pursuant to the Temporary Restraining Order of October 12, 2006, and are currently being held by pursuant to the Amended Preliminary Injunction of November 11, 2009, in the account referred to as "Credit Suisse CNS, No. 214-165714." Within 14 business days following entry of this Final Judgment, Credit Suisse Securities (USA) LLC shall pay \$85,631 to the Clerk of this Court, together with a cover letter identifying Peter Kohler as a defendant in this action pursuant to substitution for Lorenz Kohler; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Credit Suisse Securities (USA) LLC shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. Peter Kohler, personally and as representative of the community of heirs of Lorenz Kohler, relinquishes all legal and equitable right, title, and interest in this \$85,631 and no part of such funds shall be returned to him.

The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS") or any other type of interest bearing account that is utilized by the Court. These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held in the interest bearing account until further order of the Court. In accordance with 28 U.S.C. § 1914 and the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the

United States. The Commission may propose a plan to distribute the Fund subject to the Court's approval.

II.

The Amended Preliminary Injunction issued on November 11, 2009, is hereby amended to provide that the asset freeze imposed by that preliminary injunction is lifted to the extent necessary to allow Credit Suisse Securities (USA) LLC to pay \$85,631 to the Clerk of the Court pursuant to the foregoing provisions of this Final Judgment. Further, thirty days after Credit Suisse Securities (USA) LLC makes such payment, the Amended Preliminary Injunction of November 11, 2009, shall terminate with regard to any remaining proceeds from the above-mentioned sales for the benefit of Lorenz Kohler's account.

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Peter Kohler shall comply with all of the undertakings and agreements set forth therein.

IV.

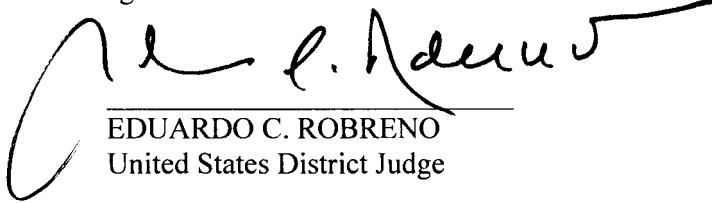
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

V.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated:

1/24/11

  
EDUARDO C. ROBRENO  
United States District Judge